

EXHIBIT “Q”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SIDNEY MANES, Administrator of the Estate of
HECTOR RIVAS,

Plaintiff,

vs.

***EXPERT AFFIRMATION
OF MARY JUMBELIC***

Civil Action No. 5:19-cv-844
(BKS/TWD)

ONONDAGA COUNTY, CITY OF SYRACUSE,
WILLIAM FITZPATRICK, DR. ERIK MITCHELL,
AND "JOHN DOES 1-10",

Defendants.

Under the penalty of perjury, Mary Jumbelic, affirms the following to be true, upon personal knowledge and/or upon information and belief, with respect to the matter entitled The People of the State of New York versus Hector Rivas, Indictment No. 92-1114-1, as venued in Onondaga County, New York,

1. I have been asked to review the following materials:

1. Autopsy Photos
2. Crime Scene Photos
3. Brain Slides
4. Search Warrant
5. Scene Investigation Reports
6. Toxicology Reports/Screens
7. Death Investigation Report
8. Medical Examiner's Report
9. Onondaga County of Health Lab Report
10. Onondaga County Medical Examiner's File
11. [REDACTED] Autopsy Report
12. [REDACTED] Death Certificate
13. [REDACTED] Prescription Record

14. Amended Complaint
15. Fitzpatrick Answer to Amended Complaint
16. Mitchell Answer to Amended Complaint
17. Deposition Transcript of William Fitzpatrick
18. Deposition Transcript of Erik Mitchell
19. Deposition Transcript of Peter Tynan
20. Erik Mitchell Trial Testimony and Grand Jury Testimony
21. Affirmation of Cyril H. Wecht, MD, JD.
22. The deposition transcript of Daniel Spitz.

2. My opinion within a reasonable degree of medical certainty is as follows: Dr. Mitchell opined in the contemporaneous record that the time of death was within two (2) to three (3) days of the body being found. That remained his consistent opinion. That opinion was arrived at based on the facts, his observations at the scene and of the body, and the autopsy. A range of time regarding time of death is usual, customary and accepted practice. The opinions he offered in the Medical Examiner's Record and his courtroom testimony were reached consistent with the standard of practice.

3. Dr. Mitchell's opinion was based on sound scientific reasoning based on the evidence. The time of death is an inexact science. Forensic pathologists have used multiple observations to estimate the time of death within early Post-mortem Interval (<72 hours) – rigor mortis, liver mortis, body cooling, and gastric contents. These would have been the parameters in 1987. The time of death falls between when the decedent was last known to be alive and when they were found dead. Forensic pathologists consider the veracity of the information they are provided. I agree within a reasonable degree of medical certainty that based on these factors as reported in the formal Autopsy Report and the facts provided to Dr. Mitchell in his trial testimony, that the time of death was within a range of Friday to Sunday, but more likely Friday based on the facts in evidence.



Dr. Mitchell in his trial testimony was asked that question after being presented with the investigative facts proven at trial including, but not limited to:

- Lack of phone activity on Saturday morning in the context of the victim's habits, ill step-mother and that she was about to travel;
- The lack of use of her car upon viewing the odometer;
- Any observation of [REDACTED] after early Friday evening;
- Pending travel plans and lack of notice to her friend with whom she was planning to travel;
- Lack of any contact with her father;
- Her cat being left outside overnight;

4. The consensus standard for forensic pathologists that were in existence at the time of the autopsy were complied with by Dr. Mitchell in conducting the autopsy.

5. Estimations as to time of death by forensic pathologists are generally based in part on history, which is an integral part of the scientific process followed to arrive at testimonial opinions. In this case, it was entirely consistent for Dr. Mitchell to base his testimony upon his observations at the scene of the murder, the autopsy and the testimonial facts in offering his opinions. Dr. Mitchell's opinions were based on objective scientific and factual evidence.

6. Dr. Spitz is not correct that [REDACTED] death more likely occurred thirty-six (36) hours but not later than forty-eight (48) hours before she was found dead.

7. Dr. Spitz in his expert report opined that there was no scientific basis for Dr. Mitchell's opinions as to the time of death. I disagree. Moreover, in his deposition, Dr. Spitz acknowledged that Dr. Mitchell's testimony with regard to time of death was within the standard of care as was the autopsy. I agree. Dr. Spitz correctly referenced determinations as to unobserved

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time of death as subject to a bell-shaped curve as to likelihood. He acknowledged that the time of death on March 27, 1987, was within the outer limits of the bell-shaped curve in this case. What Dr. Spitz refers to in his deposition as an outlier is supported by the cool temperature of the room in which the decedent was found, and the cool temperature of the basement which was below the floor upon which her body was found, both of which would plausibly have slowed rigor. Add to this the facts surrounding [REDACTED] death, to wit: her failure to contact her father and friend at any time after Friday night; her failure to answer their telephone calls over the weekend; her car not having been moved; her cat being outside; her not being seen for the entire weekend; all makes for the time of death more likely within reasonable certainty Friday night March 27th to the early morning hours of March 28.

8. Dr. Mitchell adhered to the consensus standard for forensic pathologists in existence at the time of the investigation, in the autopsy and in his testimony at trial.

9. The use of the term "slides," "Brain Slides," and the like as used in the trial testimony was common. It was usual practice to take Kodachrome slides for photographic documentation and use with a light box and/or slide projector. It was also usual and common practice to refer to the same as slides; as distinct from tissue slides.

10. [REDACTED]

11. The time of death could not be determined by the condition of the decedent's brain exclusively but rather the investigation at the scene, the autopsy and testimonial investigative facts.

12. The determination of ambient air temperature by Dr. Mitchell was within accepted standards and an appropriate factor to consider. We must credit that of all of the forensic pathologists testifying, Dr. Mitchell was present in the apartment on the day the body was found and experienced the temperature of the apartment and coolness of the floor. He testified that the



temperature in [REDACTED] apartment was 62 degrees, the floor she was laying on was cool, as was the basement which Dr. Mitchell was in as a part of his investigation.

13. Dr. Spitz wrongly ignores the facts which Dr. Mitchell was asked to assume by Mr. Fitzpatrick, and which constitute an integral part of the history in determining the time of death. I do agree with Dr. Spitz in his deposition testimony in which he opined Dr. Mitchell conducted the autopsy and testified as to time of death within the standard of care.

My curriculum vitae is attached to this affirmation.

I affirm, this 23 day of October, 2024 under penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law. *my*

Mary Jumbelic
Mary Jumbelic, M.D.

MARY I. JUMBELIC, M.D.
Forensic Pathologist

Cellular telephone: (315) 345-1858

E-mail: mjumbelic@gmail.com

CURRICULUM VITAE

PERSONAL

Birthdate: [REDACTED]
Birthplace: Baltimore, Maryland

EDUCATION AND EMPLOYMENT

Onondaga County Medical Examiner's Office
Department of Health
Syracuse, New York
Chief Medical Examiner, January 1998 – 2009
Deputy Chief Medical Examiner, August 1995 – January 1998

State University of New York (SUNY)
Department of Pathology
Syracuse, New York
Clinical Associate Professor, March 2000 - 2009
Director of Postmortem Services, May 1998 – 2009
Clinical Assistant Professor, March 1996 – February 2000

Le Moyne College
Department of Sociology and Criminal Justice
Syracuse, New York
Adjunct Professor, January 2007- 2009

Central Illinois and Iowa Coroners, 21 counties
Peoria, Illinois
Forensic Pathologist, Appointed Coroner's Physician
September 1990 – June 1995

University of Illinois College of Medicine
Peoria, Illinois
Clinical Assistant Professor of Pathology, September 1993 – June 1995
Clinical Instructor of Pathology, September 1991 – September 1993

Pediatric Resource Center
Peoria, Illinois
Staff Physician
July 1994 – June 1995

MARY I. JUMBELIC, M.D.
Forensic Pathologist

EDUCATION AND EMPLOYMENT (continued)

Saint Francis Hospital Pathology Associates
Peoria, Illinois
Anatomic Pathologist
November 1990 – May 1994

Cook County Office of the Medical Examiner
Chicago, Illinois
Deputy Medical Examiner, July 1988 – July 1990
Fellow in Forensic Pathology, July 1987 – July 1988

Northwestern University Hospital
Chicago, Illinois
Resident in Pathology, 1985 – 1987

Union Memorial Hospital
Baltimore, Maryland
Resident in Pathology, 1984 – 1985
Intern in General Surgery, 1983 – 1984

University of Maryland School of Medicine
Baltimore, Maryland
Doctor of Medicine, 1983

University of Maryland
Baltimore County, Maryland
Bachelor of Arts, 1979
Major in Biologic Life Sciences

Martin Marietta Laboratories
Baltimore, Maryland
Research Staff, 1977 – 1981

BOARD CERTIFICATIONS (AMERICAN BOARD OF PATHOLOGY)

Forensic Pathology, May 1988
Anatomic Pathology, May 1987

HONORS

Baltimore City Medical Society Scholarship, 1980 - 1982
Phi Kappa Phi Honor Society, 1978 – 1980
Cum Laude, University of Maryland, 1979

AWARDS

Professional Recognition Award for Best News Source, Syracuse Press Club, May 2009

Alumna Profile, University of Maryland Medical Alumni Association, School, and Hospital, Fall 2006

MARY I. JUMBELIC, M.D.
Forensic Pathologist

AWARDS (continued)

New York State Senate Liberty Award, February 28, 2002

Award for Physician Service to Other Communities/Countries, Onondaga County Medical Society, October 2001

Trailblazer in Forensic Medicine Award, National Organization of Women, Central New York Chapter,
Annual Heroines Dinner, November 2000

Alumna Profile, Class of 1979, University of Maryland Baltimore County Special 30th Anniversary
Commemorative Issue, UMBC Magazine, Summer 1997

National Transportation Safety Board Recognition Award, presented at the
National Association of Medical Examiner's Annual Conference, September 13, 1997

Physician's Recognition Award, American Medical Association, Continuing Medical Education
July 1995 – July 1998
September 1992 – July 1995
August 1990 – August 1992
July 1988 – July 1990

State of Illinois, Office of the Attorney General, Certificate of Appreciation, February 17, 1994

Senior Strength, Center for Prevention of Abuse, Above and Beyond Award, 1993

PROFESSIONAL ASSOCIATIONS

American Academy of Forensic Sciences (Fellow)
Disaster Mortuary Team (D-MORT), United States Public Health Service, 20 years
National Association of Medical Examiners
New York State Association of County Coroners and Medical Examiners
Medical Society of the State of New York
Onondaga County Medical Society

BOARDS AND COMMITTEES

Delegate, Fifth District Branch, 201st Annual Meeting of the House of Delegates of the Medical Society of the
State of New York, 2007 to 2008.

Member, Thursday Night Club, SUNY Upstate Medical University, 2004 to 2013

Consultant, Department of Corrections Inspector General's Office, New York State, 2004 to 2009

Forensic Pathologist, Morgue and Reconciliation, DMORT response to Hurricane Katrina, St. Gabriel,
Louisiana, October 15-28, 2005.

United States Medical Examiner, Forensic Analysis Team, Thailand Tsunami Victim Identification, US Agency
for International Development/Bureau for Democracy, Conflict, and Humanitarian Assistance/Office of US
Foreign Disaster Assistance (USAID/DCHA/OFDA) to the Disaster Assistance Response Team, January 12-
February 6, 2005.

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Forensic Pathologist

BOARDS AND COMMITTEES (continued)

Member of Standards, Inspection, Accreditation Standards Subcommittee, National Association of Medical Examiners, 2003 to 2009.

Member, CNY Regional Trauma Advisory Committee, State University of New York, Upstate Medical University, April 2003 – December 2004.

Member, National Medical Examiner/Coroner Advisory Committee, the American Red Cross, October 2002 - December 2004.

Member, Ad Hoc Committee on Developing Protocols for Interagency Interactions in Mass Fatality Incidents, National Association of Medical Examiners, 2001.

Member, Executive Council, Onondaga County Medical Society, initially Alternate, October 2001 – 2009.

Member, Biological, Chemical, Radiation Hazard Task Force, Onondaga County Health Department, October 2001- 2004 (originally Bioterrorism Committee).

Member of Ground Zero Team, World Trade Center Recovery, Disaster Mortuary Operations Response Team, September 12 – 29, 2001.

Member, Test Committee for Forensic Pathology, American Board of Pathology, Served 5-year term, May 2001 - 2007

Secretary, New York State Association of County Coroners and Medical Examiners, September 2000 – May 2005, Member of Board of Directors since January 1998

Member, Public Health/Emergency Medical Data Workshop, Onondaga County Health Department, June 2000

Member, Laboratory Oversight Committee, Onondaga County Health Department, February 2000

Advisor to NTSB, DMORT response to Egypt Air Flight 990 Crash, November 1999.

Member of Committee of Forensic Medicine for the Medical Society of the State of New York, February 1998 – 2015.

Chairman, Child Death Review Team for the Onondaga County Health Department, January 1998 – 2009 member since March 1996

Member of Organ Donation Advisory Panel for the Medical Society of the State of New York, March 1998 – October 2001

Member of Emergency Medical Services Advisory Board, January 1998 – June 2000

Member of Child Abuse Management Team, Catholic Charities, 1997 – 1999

Member of the Board of Directors, Just for Babies, Syracuse, New York, 1997 – 1999

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Forensic Pathologist

BOARDS AND COMMITTEES (continued)

Chief of Pathology Section, DMORT response to aid in Mass Disaster of KAL Flight 801 in Guam, August 1997

Member of Board of Editors of the American Journal of Forensic Medicine and Pathology,
October 1996 – January 2004.

Member of Onondaga County Disaster Committee, August 1996 – April 2000.

Member of Governor's Emergency Response Team to aid in Mass Disaster of TWA Flight 800
in Suffolk County, Long Island, New York, July 1996

Alternate Delegate of The National Association of Medical Examiners to The American Medical
Association, 1994 – 1998

Member of the Education, Program, and Publications Committee, National Association of Medical Examiners,
1993 – 2009

Member of Death and Serious Injury Forensic Advisory Board for the Attorney General,
State of Illinois, 1993 – 1995

Member of Sexual Assault Medical Work Group for Illinois Department of Public Health,
1993 – 1995

Member of Illinois State Police Forensic Science Laboratory Advisory Board, 1992 – 1995

PUBLICATIONS

Jumbelic, M., "Mass Disasters: Role of Forensic Pathologists", Chapter in Encyclopedia of Forensic and Legal
Medicine, edited by Jason Payne-James, Roger Byard, Tracey Corey, and Carol Henderson, Academic Press,
2005. Reprinted, edited by Jay Siegal and Pekka Saukko, Elsevier Press, 2012, co-author Martin Safran, M.D.
in review with expected publication 2024-2025.

Jumbelic, M. "Deaths with Transdermal Fentanyl Patches", American Journal of Forensic Medicine and
Pathology, 31(1):18-21, March 2010.

Delongchamps, N., Wang, C., Chandan, V., Jones, R., Threatte, G., **Jumbelic, M.**, de la Roza, G., and Haas, G.,
"Pathological characteristics of Prostate Cancer in Elderly Men", Journal of Urology, 182(3):927-30,
September 2009.

Stoppacher, R., Yancon, A., and **Jumbelic, M.**, "Fatalities Associated with the Termination of Electrical
Services", American Journal of Forensic Medicine and Pathology, 29(3):231-4, September 2008.

Delongchamps, N, de la Roza, G., Chandan, V., Jones, R., Sunheimer, R, Threatte, G., **Jumbelic, M.**, and Haas,
G. "Evaluation of Prostatitis in Autopsied Prostates", Journal of Urology, 179(5):1736-40, May 2008.

Haas, G., Delongchamps, N., Jones, R., Chandan, V., Serio, A., Vickers, A., **Jumbelic, M.**, et al, "Needle
Biopsies on Autopsy Prostates: Sensitivity of Cancer Detection Based on True Prevalence", JNCI,
99(19):1484-1489, October 3, 2007.

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Forensic Pathologist

PUBLICATIONS (continued)

Jumbelic, M., "Traumatic Asphyxia in Weightlifters", Journal of Forensic Sciences, 52(3):702-705, May 2007.

Nakhla, H., and **Jumbelic, M.**, "Sudden Death of a Patient with Pulmonary Langerhans Cell Histiocytosis", Arch Pathol Lab Med, 129:798-799, June 2005.

Jumbelic, M., "Carbon Monoxide Intoxication in Swimmers", Check Sample Forensic Pathology Series, American Society of Clinical Pathologists, 47(2):15-27, February 2005.

Jones, R., Sunheimer, R., Friedman, H., Miller, D., Ginsburg, R., **Jumbelic, M.**, et al, "Comparison of Ante- and Post-Mortem PSA Levels for Epidemiological Studies", Anticancer Research, 25:1263-1268, 2005.

Jumbelic, M., "Mass Disasters: Role of Forensic Pathologists", Chapter in Encyclopedia of Forensic and Legal Medicine, edited by Jason Payne-James, Roger Byard, Tracey Corey, and Carol Henderson, Academic Press, 2005. Reprinted, edited by Jay Siegal and Pekka Saukko, Elsevier Press, 2012.

Jumbelic, M., Invited letter for publication in The Baltimore City Medical Society, A History, by Ron and Pat Pilling, pages 176-7, American Literary Press, Baltimore, 2004.

Marx, W, Simon, H., **Jumbelic, M.**, et al, "Severity of Injury is Underestimated in the Absence of Autopsy Verification", Journal of Trauma, Injury, Infection, and Critical Care, 57(1):1-5, July 2004.

McCammon, J., **Jumbelic, M.**, and Baron, R., "Comments on Watercraft-related Drownings", Letter to the Editor, Public Health Reports, 119(2):112, March/April 2004.

Turner M. and **Jumbelic, M.** "Stun Gun Injuries in the Abuse and Death of a Seven-Month-Old Infant", Journal of Forensic Sciences, 48(1):180-182, January 2003.

Staats P., **Jumbelic, M.**, and Dignan C., "Death by Compaction in a Garbage Truck", Journal of Forensic Sciences, 47(5):1065-66, September 2002.

Ubelaker, D., **Jumbelic, M.**, Wilson, M., and Levinsohn, "Multidisciplinary Approach to Human Identification in Homicide Investigation: A Case Study From New York", Case Studies in Forensic Anthropology: A Reader, editor Steadman, D., Prentice Hall, October 2002.

Gosink, P., **Jumbelic, M.**, "Autoerotic Asphyxiation in a Female," American Journal of Forensic Medicine and Pathology, 21(2):114-118, June 2000.

Jumbelic, M., "Airway Obstruction by a Ball," Journal of Forensic Sciences, 44(5):1079-1081, September 1999.

Jumbelic, M., "Open Air Carbon Monoxide Poisoning," Journal of Forensic Sciences, 43(1):228-230, January 1998.

Jumbelic, M., Hanzlick, R., and Cohle, S., "Alkylamine Antihistamine Toxicity and Review of Pediatric Toxicology Registry of the National Association of Medical Examiners," American Journal of Forensic Medicine and Pathology, 18(1):65-69, March 1997.

MARY I. JUMBELIC, M.D.

Forensic Pathologist

PUBLICATIONS (continued)

Jumbelic, M., “Letter to the Editor,” re: Inflicted Incision of the Penis, Child Abuse and Neglect, 21(3):249, March 1997.

Jumbelic, M., “Forensic Perspectives of Electrical and Lightning Injuries,” Seminars in Neurology, 15:4:342-350, December 1995.

Jumbelic, M., “Fatal Injuries in a Minor Traffic Collision,” Journal of Forensic Sciences, 40:3:492-494, May 1995.

Jumbelic, M., “Fatal Obesity: Forensic Pathology Case Report,” Hospital Physician, 29:4, April 1993.

Jumbelic, M., Chambliss, M., “Accidental Toddler Drowning in 5-Gallon Buckets,” JAMA, 263:1952-3, 1990

Jumbelic, M., “Forensic Autopsy for the Non-Pathologist,” Hospital Physician, 25:47, May 1989.

Kaufman, D., Gordon, L., Variakojis, D., Caro, W., Marder, R., **Jumbelic, M.**, Roenigk, H., “Successfully Treated Hodgkin’s Disease Followed by Mycosis Fungoides: Case Report and Review of the Literature,” Cutis, 39:291, April 1987.

Herman, J., **Jumbelic, M.**, Ancona, R., Kickler, T., “In Utero Cerebral Hemorrhage in Alloimmune Thrombocytopenia,” American Journal of Pediatric Hematology and Oncology, 8:312, Winter, 1986.

Jumbelic, M., Feurstein, I., Dorfman, H., “Solitary Intraosseous Lymphangioma,” Journal of Bone and Joint Surgery,” 66-A:1479, December 1984.

NATIONAL/INTERNATIONAL PRESENTATIONS

Jumbelic, M., “American Perspective of the recovery efforts of victims of the Tsunami in Thailand”, Plenary Lecture, 9th Indo-Pacific Congress on Legal Medicine & Forensic Sciences, July 23, 2007.

McCammon, J., Jumbelic, M., and Baron, R, “Carboxyhemoglobin Analysis and Deaths Near Boats”, Presented at the annual meeting of the National Association of Medical Examiners, San Jose, California, September 20, 2003.

Kontanis, E., Ciaccio, F., Dirkmaat, D., Falsetti, A., Jumbelic, M., “The Triage Station: Recent Advances in Mass Fatality Incident Morgue Operations”, Poster presented at the annual meeting of the American Academy of Forensic Sciences, Chicago, Illinois, February 2003.

Falsetti, A., Walsh-Haney, H., and **Jumbelic, M.**, “Patterns of thermal damage to human skeletal remains”, Poster presented at the annual meeting of the National Association of Medical Examiners, Shreveport, Louisiana, September 2002.

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Forensic Pathologist

NATIONAL/INTERNATIONAL PRESENTATIONS (continued)

Jumbelic, M., Kontanis, E., and Graham M., “Conclusions of Study on Interobserver Variation in Estimating Coronary Atherosclerosis”, Presented at the annual meeting of the National Association of Medical Examiners, Shreveport, Louisiana, September 2002.

Jumbelic, M., Kontanis, E., and Graham M., “Interobserver Variation in Estimating Coronary Atherosclerosis”, Presented at the annual meeting of the National Association of Medical Examiners, Richmond, Virginia, October 2001.

Kontanis, E., Jumbelic, M., Dirkmaat, D., and Ciacio, F., “Mass Fatality Incident Victim Identification Methods and the Variables Which Influence Their Success,” Presented at the annual meeting of the American Academy of Forensic Sciences, Seattle, Washington, February 2001.

Cibula, D., **Barone, S.,** Jumbelic, M., Johnston, M., et al, “Population-based Assessment of Adolescent Suicidal Behaviors in Onondaga County, New York”, Presented at the annual meeting of the American Public Health Association, Boston, Massachusetts, November 2000.

Jumbelic, M., Falsetti, A., Walsh-Haney, H., Brunelli, R., "Skeletal Survey." Poster presented at the annual meeting of the National Association of Medical Examiners, Indianapolis, Indiana, September 2000.

Jumbelic, M., Saul, F., Sledzik, P., “The Disaster Mortuary Operational Response Team (DMORT) Model for Managing Mass Fatality Incidents.” All-day workshop presented at the annual meeting of the American Academy of Forensic Sciences, Reno, Nevada, February 2000.

Jumbelic, M., “Self-Inflicted Gunshot Wound to the Back of the Head.” Poster presented at the annual meeting of the National Association of Medical Examiners, Albuquerque, New Mexico, October 1998.

Jumbelic, M., “To Bee or Not to Bee.” Presented at the annual meeting of the National Association of Medical Examiners, Fort Worth, Texas, September 1993.

Jumbelic, M., “Pressure Abrasions Mimicking Electrical Burns.” Poster presented at the annual meeting of the American Academy of Forensic Sciences, Boston, Massachusetts, February 1993.

Jumbelic, M., Eckner, F., Richmond, J., Kirschner, R., “Sudden Non-Atherosclerotic Cardiac Death in Young Adults.” Presented at the annual meeting of the American Academy of Forensic Sciences, Cleveland, Ohio, February 1990.

Jumbelic, M., Eckner, F., Richmond, J., Kirschner, R., “Sudden Cardiac Death in Children.” Presented at the annual meeting of the National Association of Medical Examiners, Boston, November 1988.